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March 1, 2017

**By ECFS**

Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: **Boomerang Wireless, LLC d/b/a enTouch Wireless Eligible  
Telecommunications Carrier and Lifeline Broadband Provider  
Requests; WC Docket Nos. 09-197, 11-42**

Dear Ms. Dortch:

Boomerang Wireless, LLC d/b/a enTouch Wireless (Boomerang or the Company) by and through the undersigned counsel, hereby submits this letter regarding Boomerang's petitions for designation as an Eligible Telecommunications Carrier (ETC) in eleven of the federal jurisdiction states<sup>1</sup> and Lifeline Broadband Provider (LBP) designation<sup>2</sup> that are currently pending before the Commission. Specifically, this letter is intended to:

1. Request that the Wireline Competition Bureau (Bureau) grant Boomerang's ETC Petition expeditiously;<sup>3</sup>

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<sup>1</sup> See Amended Petition of Boomerang Wireless, LLC for Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Maine, New Hampshire, New York, North Carolina, Tennessee, and Virginia, WC Docket No. 09-197 (filed Aug. 25, 2015) (ETC Petition). The petition was originally filed on December 29, 2010.

<sup>2</sup> See Boomerang Wireless, LLC d/b/a enTouch Wireless Petition for Streamlined Designation as a Lifeline Broadband Provider Eligible Telecommunications Carrier, WC Docket No. 09-197 (filed Oct. 5, 2016) (LBP Petition).

<sup>3</sup> Alternatively, Boomerang requests renewed LBP designation by the Bureau, including a designation that is limited to the eleven federal ETC jurisdictions identified in the ETC Petition.

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2. Reconcile the states and service areas in the ETC Petition and LBP petition where Boomerang seeks authority to provide Lifeline services (including removal of Federally Recognized Tribal lands from both requests);
3. Clarify the proposed Lifeline service plans for which Boomerang seeks approval from the Commission; and
4. Assure the Commission of Boomerang's ongoing commitment to comply with all applicable Lifeline program rules and orders.

***Boomerang's Pending Petitions and Request for Immediate Action***

Boomerang's ETC Petition, originally filed in 2010, has been pending before the Commission longer than any other request for ETC designation in the federal ETC jurisdictions. Boomerang has amended its ETC Petition nearly a dozen times between 2010 and 2015 to reflect Lifeline program rule changes and update Company-specific information, including proposed Lifeline service plans. While Boomerang's ETC Petition has been pending, the Bureau approved Boomerang's Compliance Plan in 2012,<sup>4</sup> which allowed the Company to obtain ETC designations and begin offering Lifeline service in 31 states.<sup>5</sup> Additionally, although the Company did not advocate for the LBP designation process, Boomerang pursued and was granted designation to operate as an LBP,<sup>6</sup> and currently serves 17,538 Lifeline subscribers pursuant to that designation, many of whom reside in a federal ETC jurisdiction included in Boomerang's ETC Petition.<sup>7</sup>

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<sup>4</sup> See *Wireline Competition Bureau Approves the Compliance Plans of Birch Communications, Boomerang Wireless, IM Telecom, Q LINK Wireless and TAG Mobile*, WC Docket Nos. 09-197, 11-42, Public Notice, DA 12-1286 (rel. Aug. 8, 2012).

<sup>5</sup> Boomerang also has pending individual requests for ETC designation in six states, in addition to the 11 states named in its ETC Petition.

<sup>6</sup> See *Telecommunications Carriers Eligible for Universal Service Support, Petitions for Designation as a Lifeline Broadband Provider*, WC Docket Nos. 09-197, 11-42, Order, DA 16-1325 (WCB rel. Dec. 1, 2016) (LBP Designation Order).

<sup>7</sup> As Boomerang has previously explained to the Commission, in 2016, Boomerang pursued two transactions by which it acquired Lifeline subscribers from two other ETCs operating in multiple states. One of those transactions was to acquire Lifeline subscribers from Total Call Mobile due to that company's ongoing investigations and impending exit from the Lifeline business so that eligible subscribers would continue to receive Lifeline services. Boomerang worked hand-in-hand with Bureau staff to develop a subscriber vetting process and invested substantial capital, time and other resources to that process to confirm the eligibility of every subscriber that was transferred to Boomerang. Pursuant to both transactions, some subscribers were transferred immediately to Boomerang in states where the Company held a state ETC designation, but some subscribers were held because Boomerang did not yet have an ETC designation in some states.

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Boomerang respectfully requests that the Bureau grant its ETC Petition expeditiously. Granting Boomerang this authority in eleven states that do not designate wireless ETCs is clearly within the Commission's authority and would allow Boomerang to fill out a near national footprint, including an estimated 37 percent of the eligible Lifeline subscribers in the United States who reside in the federal ETC jurisdictions. More importantly, grant of the ETC Petition will allow Boomerang to continue to serve many of the 17,538 Lifeline subscribers enrolled by Boomerang since December 1, 2016 pursuant to its LBP designation.<sup>8</sup>

***Requested Service Areas in Boomerang's ETC Petition and LBP Petition***

Boomerang's ETC Petition requests authority to provide voice and broadband Lifeline services in the following jurisdictions: Alabama, Connecticut, Delaware, the District of Columbia, Florida, Maine, New Hampshire, New York, North Carolina, Tennessee, and Virginia. Each of these jurisdictions has provided an affirmative statement to the Commission that it does not assert authority over wireless resellers for the purpose of Lifeline-only ETC designation. In its LBP Petition, Boomerang requested authority to provide Lifeline broadband services in 51 states and territories, including all eleven federal ETC jurisdictions named in the ETC Petition. Boomerang included as an attachment to the LBP Petition a list of zip codes it can serve in each of those jurisdictions pursuant to its agreements with its underlying service providers. To reconcile any potential discrepancies between the service areas identified in the ETC Petition and the LBP Petition, Boomerang hereby clarifies that it is seeking only ETC designation in the eleven federal ETC jurisdictions named in its ETC petition, with the specific service areas defined by the list of study areas that was provided with the ETC Petition. Additionally, to assuage any potential concerns about infringing on Tribal sovereignty, Boomerang hereby modifies its ETC Petition to exclude all Federally Recognized Tribal lands within the eleven federal ETC jurisdictions.<sup>9</sup> Therefore, it cannot be argued that a copy of

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Those subscribers were then transferred to the Company after its LBP petition was granted. Therefore, Boomerang had subscribers in some states that it served pursuant to its LBP designation almost immediately after it received the designation on December 1, 2016.

<sup>8</sup> Boomerang also reiterates its request that the Commission delay the revocation of Boomerang's LBP designation until the states can act on Boomerang's pending ETC petitions (and the Commission can act on the federal ETC petition). Specifically, the Bureau should reconsider the Revocation Order to delay the effective date of the revocation of Boomerang's LBP designation until either Boomerang's ETC designation is granted by the state (or the Commission) or 60 days after Boomerang's ETC designation is denied by the state (or the Commission), which process it should expect to complete within six months. This action would more effectively minimize disruption to Boomerang's impacted Lifeline subscribers and contemplates return of the ETC designation authority to the states that exercise such authority for wireless carriers like Boomerang.

<sup>9</sup> To the extent that any of the study areas included in this list fall partially in a Federally Recognized Tribal land, Boomerang will not serve the residents of Federally Recognized Tribal lands within those study areas.

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Boomerang's federal ETC petition must be provided to any Tribal authorities pursuant to section 54.202(c) of the Commission's rules. Boomerang's underlying service providers will be Sprint, T-Mobile and Verizon Wireless.

***Boomerang's Proposed Lifeline Service Plans***

Boomerang's ETC petition provided two proposed Lifeline service plans, and the LBP Petition provided three additional plans. To clarify, Boomerang is now requesting approval for the following plans in its pending federal ETC petition:

- ***Plan 1:*** 250 units (talk and text) per month (without rollover) in which 1 minute equals 1 unit and 1 text equals 1 unit, and 500 MB of data per month. The Company also will offer for purchase hotspot-enabled devices, permitting Lifeline eligible subscribers to share their broadband service with others in their household. Lifeline-eligible subscribers also will be able to purchase device upgrades providing benefits such as the ability to enjoy high-quality photos and video, experience faster load-times for on-device apps and services, and benefit from better storage and memory.
- ***Plan 2:*** 500 MB only at no cost. Subscribers will be able to purchase a Wi-Fi-enabled smartphone. The Company also will offer for purchase hotspot-enabled devices, permitting Lifeline eligible subscribers to share their broadband service with others in their household. Lifeline-eligible subscribers also will be able to purchase device upgrades providing benefits such as the ability to enjoy high-quality photos and video, experience faster load-times for on-device apps and services, and benefit from better storage and memory.
- ***Plan 3:*** 500 voice minutes + 100 texts + 10 MB data at no cost. Subscribers will be able to purchase a Wi-Fi-enabled smartphone. The consumer can apply this service plan to a phone that they own or they can purchase a Wi-Fi enabled device from Boomerang.

The Company understands that it must continue to comply with the Commission's minimum service standards for Lifeline-supported voice and broadband services, and in the future, will revise its offerings in a manner that complies with those minimum service standards.<sup>10</sup>

***Boomerang's Commitment to Compliance with the Lifeline Program Rules and Orders***

Although the Commission has already granted Boomerang's compliance plan, Boomerang has been and continues to be committed to complying with all the requirements set forth in the Lifeline rules and orders, including the Lifeline Modernization Order and the rules

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<sup>10</sup> See Lifeline Modernization Order ¶ 93; 47 C.F.R. §§ 54.408(a)(2), (b)(2)(ii), (c).

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made effective in December last year. Indeed, the fact that during its six years operating as a Lifeline provider, Boomerang has never been subject to any enforcement action, is a testament to this commitment to compliance. Additionally, in the future, Boomerang will implement any subsequent rule changes as of their effective date.

Respectfully submitted,



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